

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARREL WAYNE VANDERGRIFF,

Plaintiff,

v.

LYNNE DELANO, *et al.*,

Defendants.

Case No. C06-5062 RBL/KLS

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation in part;
- (2) Defendant's Motion for Summary Judgment [Dkt. #99] is **GRANTED IN PART AND DENIED IN PART**. Plaintiff's claims are dismissed with prejudice except as to plaintiff's claim of excessive use of force against Defendants Barnes, Bernard and Faulks. The excessive force claim as to Defendants Barnes and Bernard is dismissed without prejudice for failure to effect service. Defendant's Motion for Summary Judgment as to plaintiff's excessive force claim against Defendant Faulks is **DENIED**.
- (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants and to the Hon. Karen L. Strombom.

DATED this 27th day of June, 2007.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE